

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA

In re:

Bourbon Street LLC,  
dba La Cantina,

Bankruptcy No. 23-30246  
Chapter 11- Subchapter V

Debtor

---

Petri Enterprises, LLC,  
dba La Cantina,  
dba Heros and Legends Sports Bar,  
dba Heros and Legends,

Bankruptcy No. 23-30247  
Chapter 11 – Subchapter V

Debtor

---

Gannet Peak, LLC,  
dba La Cantina,

Bankruptcy No. 23-30248  
Chapter 11 – Subchapter V

Debtor

---

NOTICE OF ACTING UNITED STATES TRUSTEE'S MOTION TO DISMISS  
OR CONVERT CHAPTER 11 CASE

---

The United States Trustee's Office has filed a motion to convert or dismiss these jointly administered cases for cause under 11 U.S.C. §1112(b). **Your rights may be affected.** You should read these papers carefully and discuss them with your attorney, if you have one in these bankruptcy cases. If you do not have an attorney, you may wish to consult one.

Any response to the Motion must be filed and served no later than 21 days of the filing of this motion pursuant to Rule 6004(b) of the Federal Rules of Bankruptcy Procedure. **UNLESS A RESPONSE OPPOSING THE MOTION IS TIMELY FILED, THE COURT MAY GRANT THE MOTION WITHOUT A HEARING.**

Dated: October 4, 2023

MARY R. JENSEN  
ACTING UNITED STATES TRUSTEE REGION 12

/s/ Sarah J. Wencil  
Sarah J. Wencil  
Trial Attorney  
U.S. Courthouse Suite 1015  
300 South Fourth Street  
Minneapolis, MN 55415  
Sarah.J.Wencil@usdoj.gov

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA

In re:

**Bourbon Street LLC,  
dba La Cantina,**

**Debtor**

**Bankruptcy No. 23-30246  
Chapter 11- Subchapter V**

---

**Petri Enterprises, LLC,  
dba La Cantina,  
dba Heros and Legends Sports Bar,  
dba Heros and Legends,**

**Debtor**

**Bankruptcy No. 23-30247  
Chapter 11 – Subchapter V**

---

**Gannet Peak, LLC,  
dba La Cantina,**

**Debtor**

**Bankruptcy No. 23-30248  
Chapter 11 – Subchapter V**

---

**MOTION TO DISMISS OR CONVERT CHAPTER 11 CASES**

---

COMES NOW the Acting United States Trustee (UST) through his undersigned attorney and moves the Court to dismiss or convert these jointly administered Chapter 11 cases. In support of her motion, she states the following:

1. The UST has standing to bring this motion pursuant to 11 U.S.C. §307 and 28 U.S.C. §586. This matter is a core-proceeding arising under 28 U.S.C. §157(b)(2)(A). This Court has jurisdiction pursuant to 28 U.S.C. §1334. This motion is brought pursuant to 11 U.S.C. §1112(b)(1)<sup>1</sup>. Section 1112(b)(a) provides that the Court may treat this motion as a motion to convert or dismiss if the Court finds one or the other remedy to be in the best interest of the creditors and the estate. The UST requests that the cases be dismissed.

---

<sup>1</sup> All statutory references shall be to Title 11 of the United States Bankruptcy Code (11 U.S.C.) unless otherwise noted.

2. The Debtors filed voluntary petitions for chapter 11 reorganization on July 31, 2023. On the petitions, the Debtors elected to proceed as subchapter V business cases. Thomas Kapusta was appointed as the subchapter V trustee in all three cases on August 1, 2023.

3. The cases were finally approved to be administered jointly on August 15, 2023 (Doc. 53). At this time, there are delinquencies in all three cases, but not necessarily the same delinquencies. The UST reserves the right to modify this request if one or two of the cases resolves the objections herein. Hereafter, the UST shall refer to the cases as “Bourbon” (Bourbon Stree, LLC), “Petri” (Petri Enterprises, LLC) and “Gannett” (Gannett Peak, LLC).

4. The undersigned presided at the Section 341 meeting of creditors on September 6, 2023. After the meeting, the UST sent Debtors’ counsel an email outlining the outstanding deficiencies and outstanding documents requests by the UST. See Att. Ex. 1 (9/6/23 Email and 9/28/23 and 10/3 follow up).

### **Monthly Operating Reports**

5. The Debtor Bourbon filed the August monthly operating report (MOR) at Doc. 91. Petri and Gannett have failed to file and submit the monthly operating reports for August 2023. The reports were due after September 21, 2023.

6. The failure to comply with the monthly report filing requirements is cause to dismiss Petri and Gannett under § 1112(b)(4)(F).

7. The September 2023 MOR shall come due prior to the response due date to this motion. The UST reserves the right to raise this delinquency (and such other MOR delinquencies that may arise prior to a hearing on this motion) for all three Debtors.

### **Proof of Insurance**

8. All three Debtors have submitted some but not all of the necessary proof of insurance. See Ex. 1 (10/3/23 email set the current status). The outstanding insurance may be summarized as follows:

- Bourbon – business owners/liability
- Petri – Worker Comp Certificate and business owners/liability
- Gannett Peak – Worker Comp Certificate and business owners/liability

9. The failure to maintain appropriate insurance is cause to dismiss these cases under 11 U.S.C. § 1112(b)(4)(C).

10. The UST reserves the right to raise any delinquency that arises prior to any hearing date on this motion. For example, the Bourbon Workers Comp Cert expires on 10/31/23.

### **Documents Requested by the UST**

11. The UST has requested that the Debtors provide various documents. At this time, the Debtors have failed to provide the following:

- Bourbon – Copy of the extension for the 2022 tax return (or a copy of the return if completed) and the January 2023 – June 2023 bank statements.
- Petri - Copy of the extension for the 2022 tax return (or a copy of the return if completed) and the January 2023 – June 2023 bank statements.
- Gannett - Copy of the extension for the 2022 tax return (or a copy of the return if completed) and the January 2023 – June 2023 bank statements.

12. The failure to timely provide information reasonably requested by the UST is cause to dismiss these cases under Section 1112(b)(4)(H).

### **Small Business Documents**

13. Section 1187(a) requires the Debtors to comply with the small business document filing requirements of Section 1116(1). The Debtors filed small business document statements but the information is incomplete. For Bourbon and Petri, the Debtors' insider stated that he did not possess a balance sheet, statement of operations or a cash-flow statement, but was in the process of making of inquiry to see if the documents existed. See Doc. 48, para.

6. The UST has requested that the Debtors updated the status of the inquiry to either find

them or state that they do not exist to the best of Mr. Petri's knowledge. See Ex. 1. Likewise, Gannett should clarify whether any valid statements have been located. *See Id.*

14. The Debtors may have technically filed small business documents as per Section 1112(b)(4)(F)(cause to dismiss for failing to comply with a filing requirement). Therefore, to the extent that provision does not apply, the UST requests dismissal under Section 1112(b)(4)(H).

15. The UST reserves the right to raise any additional delinquency or cause prior to any hearing on this motion, including whether there are losses to the estate and whether there is a reasonable likelihood of reorganizing under § 1112(b)(4)(A).

16. A bankruptcy court has broad discretion in deciding whether to dismiss or convert a Chapter 11 case. *Lumber Exchange Bldg., Ltd. v. Mutual Life Ins. Co. (In re Lumber Exchange Bldg., Ltd.)*, 968 F.2d 647, 648 (8<sup>th</sup> Cir. 1992). The UST requests that the Bankruptcy Court dismiss these cases or any such case that remains delinquent up to a hearing on this motion for cause pursuant to § 1112(b). The basis for the dismissal over conversion is because the Debtors have failed to comply with chapter 11 duties and cause is not based on operational issues. Therefore, unless the Debtor(s) or a major party in interest requests otherwise, the UST requests dismissal.

WHEREFORE, the UST requests that the Court dismiss these chapter 11 cases.

Dated: October 4, 2023

MARY R. JENSEN  
Acting United States Trustee Region 12

/s/ Sarah J. Wencil  
Sarah J. Wencil  
Trial Attorney Iowa Atty. No. 14014  
Office of U.S. Trustee  
1015 United States Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415  
(612) 334-1350  
Sarah.J.Wencil@usdoj.gov

## Exhibit 1

**From:** [Wencil, Sarah \(USTP\)](#)  
**To:** [Mac VerStandig](#)  
**Cc:** [Kleiner, Tom E. \(USTP\)](#); [THOMAS KAPUSTA](#)  
**Subject:** FW: Bourbon Street et al Follow Up  
**Date:** Tuesday, October 3, 2023 3:35:00 PM

---

Mac,

To follow up, the following documents are outstanding:

Bourbon Street:

1. ASAP, need current businessowners (liability) policy. As a reminder, the Work Comp Certificate of Premium Payment certificate expires on 10/31/23.
2. Need a copy of the extension for 2022 tax return and a copy of the 2022 tax return when completed.
3. If the P&L/Balance Sheet/Cash Flow statement do not exist, need a supplement to state they do not exist, as per Section 1116(1)(B)/Section 1187.
4. Bank statements for January 2023 through June 30, 2023.

Petri Enterprises:

1. ASAP, need current Work Comp Certificate of Premium Payment. Certificate provided expired on August 31, 2023.
2. Need a copy of the extension for 2022 tax return and a copy of the 2022 tax return when completed.
3. If the P&L/Balance Sheet/Cash Flow statement do not exist, need a supplement to state they do not exist, as per Section 1116(1)(B).
4. Bank statements for January 2023 through June 30, 2023.
5. Monthly Operating Report for August 2023 (and July 31, 2023 if applicable).

Gannett Peak:

1. ASAP, need current Work Comp Certificate of Premium Payment. Certificate provided expired on September 30, 2023.
2. ASAP, need current businessowners (liability) policy. The policy provided expired on 8/15/23.
3. Need a complete copy of the 2021 tax return. The version provided is missing the first page.
4. Need a copy of the extension for 2022 tax return and a copy of the 2022 tax return when completed.
5. If the P&L/Balance Sheet/Cash Flow statement are impaired, need a supplement to state they do not exist, as per Section 1116(1)(B)/Section 1187.
6. Bank statements for January 2023 through June 30, 2023.
7. Monthly Operating Report for August 2023 (and July 31, 2023 if applicable).

All of the documents are outstanding under our previous deadlines and should be provided immediately.

Thank you

Sarah Wencil

---

**From:** Wencil, Sarah (USTP)  
**Sent:** Tuesday, September 26, 2023 10:40 AM  
**To:** Mac VerStandig <mac@dakotabankruptcy.com>  
**Cc:** THOMAS KAPUSTA <tkapusta@aol.com>; Kleiner, Tom E. (USTP) <Tom.E.Kleiner@usdoj.gov>  
**Subject:** FW: Bourbon Street et al Follow Up

Mac,

Other than the property insurance, have not received the documentation requested in our email dated 9/6/23 (including insurance for worker's compensation, liquor, general liability etc.). The failure to provide the documents raises cause to dismiss these cases under Section 1112(b)(4).

Please provide these documents by Thursday, September 28, 2023 or a reasonable timeline of when the documents will be provided.

In addition, please file the verification for the lease motion that you represented that you would file last week.

Thank you.

Sarah

---

**From:** Wencil, Sarah (USTP)  
**Sent:** Wednesday, September 6, 2023 3:08 PM  
**To:** Mac VerStandig <mac@dakotabankruptcy.com>  
**Cc:** Kleiner, Tom E. (USTP) <Tom.E.Kleiner@usdoj.gov>; THOMAS KAPUSTA <tkapusta@aol.com>  
**Subject:** Bourbon Street et al Follow Up

Mac,

To follow up the Section 341 meeting, the UST requested the following documents by 9/15/23:

Bourbon Street

1. Signed Initial Financial Report Cover Sheet
2. Signed Bank Account Reporting Form
3. Proof of current insurance
4. Extension for 2022 tax return



5. 2022 tax return when filed
6. P&L/Balance Sheet/Cash Flow if available. The §1187 statement stated that Mr. Petri is making inquiries if they exist. If yes, provide. If no, file supplement to Docket No. 48 that they do not exist.
7. Bank statements and ledger/register for the operations from January 2023 to the end of July 2023.

Petri Enterprises

1. Signed Initial Financial Report Cover Sheet
2. Signed Bank Account Reporting Form
3. Proof of current insurance
4. Extension for 2022 tax return
5. 2022 tax return when filed
6. P&L/Balance Sheet/Cash Flow if available. The §1187 statement stated that Mr. Petri is making inquiries if they exist. If yes, provide. If no, file supplement to Docket No. 48 that they do not exist.
7. Bank statements and ledger/register for the operations from January 2023 to the end of July 2023.

Gannett Peak

1. Signed Initial Financial Report Cover Sheet
2. Signed Bank Account Reporting Form
3. Proof of current insurance
4. Complete 2021 tax return (filed version missing page 1)
5. Extension for 2022 tax return
6. 2022 tax return when filed
7. P&L/Balance Sheet if more accurate versions are available. Cash Flow if available. The §1187 statement states that the P&L and BS may be materially impaired.
8. Bank statements and ledger/register for the operations from January 2023 to the end of July 2023.

Please copy Tom Kapusta on all documents.

Thank you.

Sarah Wencil

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NORTH DAKOTA

In re:

**Richard Carl Parisien**  
**d/b/a Rich's Construction**  
**Debtor.**

**Bankr. No. 20-30258**

**Chapter 11**

---

**Certificate of Service**

---

The undersigned hereby certifies under penalty of perjury that on October 4, 2023, she electronically filed the attached: Notice and Motion to Dismiss or Convert Chapter 11 Cases, thereby causing the following parties to be served by CM/ECF. A copy was also mailed by first class mail postage pre-paid at the addresses set forth below:

CM/ECF

- **Michael Gust** mlgfilings@andersonbottrell.com, jernst@abstlaw.net
- **Thomas Kapusta** tkapusta@aol.com
- **John M Krings** john@kaler-doeling.com, janae@kaler-doeling.com
- **Elizabeth Lally** elally@spencerfane.com
- **Robert B. Raschke** USTPRegion12.SX.ECF@usdoj.gov
- **John D. Schroeder** jschroeder@northdakotalaw.net,  
karensyrstad@northdakotalaw.net; amattingly@northdakotalaw.net
- **Maurice VerStandig** mac@mbvesq.com,  
mac@dakotabankruptcy.com; verstandig.mauricer104982@notify.bestcase.com; verstandiglaw@recap.email

US MAIL

Bourbon Street LLC  
1730 13<sup>th</sup> Avenue N  
Grand Forks, ND

Gannett Peak, LLC  
Petri Enterprises, LLC  
Mark Petri  
28 Center Avenue N  
Mayville, ND 58257-1141

**Byzfunder Funding LLC**  
c/o Cogency Global, Inc., Registered Agent

850 New Burton Road Suite 201  
Dover, DE 19904

**Choice Financial Group**

Grand Forks North 1697 S 42nd Street  
Grand Forks, ND 58201

**Cintas Corporation #2**

6800 Cintas Boulevard Christine West  
Mason, OH 45040

**Coca Cola Bottling Company High Country**

2150 Coca Cola Lane  
Rapid City, SD 57702

**Cole Creek LLC**

Attn: Jerome Gerszewski  
5893 Cole Creek Drive  
Grand Forks, ND 58201

**Corporation Service Company, As Represen**

P.O. Box 2576  
Springfield, IL 62708

**Internal Revenue Service**

PO Box 7346  
Philadelphia, PA 19101-7346

**L.I.S.T.E.N., Inc.**

2100 South Washington Street  
Grand Forks, ND 58201

**Midco**

PO Box 5010  
Sioux Falls, SD 57117

**National Funding, Inc.**

9530 Towne Centre Drive Suite 120  
San Diego, CA 92121

**North Dakota Office of State Tax Commiss**

600 E. Boulevard Ave. Dept. 127  
Bismarck, ND 58505

**Quick Bridge Funding, LLC**

Robert Zahradka, Esq.  
9530 Towne Centre Dr., Suite 120  
San Diego, CA 92121

**Quick Bridge Funding, LLC**

410 Exchange Suite 150  
Irvine, CA 92602

**Rewards Network Establishment Services**

540 W Madison Street Suite 2400  
Chicago, IL 60661

**Rusty Steffan**

1617 15th Ave NE  
Grand Forks, ND 58201

**Sam's West, Inc.**

c/o C T Corporation System  
124 West Capitol Avenue Suite 1900  
Little Rock, AR 72201

**Spencer Fane LLP**

C/O Elizabeth M. Lally  
13815 FNB Parkway, Suite 200  
Omaha, NE 68154

**US Foods, Inc.**

9399 West Higgins Road Suite 500  
Des Plaines, IL 60018

Dated: October 4, 2023

/s/ Sarah J. Wencil

Sarah J. Wencil

Office of the U.S. Trustee